

3/29/19

2:36 P.M.

Chapter No. 443
19/SS02/R121SG
LR / TB/LR

SENATE BILL NO. 2046

Originated in Senate



Secretary

SENATE BILL NO. 2046

AN ACT TO CREATE NEW SECTION 25-61-11.2, MISSISSIPPI CODE OF 1972, TO EXEMPT CERTAIN INFORMATION TECHNOLOGY RECORDS FROM THE MISSISSIPPI PUBLIC RECORDS ACT OF 1983; TO AMEND SECTIONS 9-5-169, 25-61-5, 25-59-19, 25-61-10 AND 31-7-111, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Section 25-61-11.2, Mississippi Code of 1972:

25-61-11.2. The following information technology (IT) records shall be exempt from the Mississippi Public Records Act of 1983:

- (a) IT infrastructure details, including network architecture, schematics, and IT system designs;
- (b) Source code;
- (c) Detailed hardware and software inventories;
- (d) Security plans;
- (e) Vulnerability reports;
- (f) Security risk assessment details;

- (g) Security compliance reports;
- (h) Authentication credentials;
- (i) Security policies and processes;
- (j) Security incident reports; and
- (k) Any audit, assessment, compliance report, work papers or any combination of these that if disclosed could allow unauthorized access to the state's IT assets.

SECTION 2. Section 9-5-169, Mississippi Code of 1972, is amended as follows:

9-5-169. Except as otherwise provided in Section 25-61-11.2, all of the records and papers of the office of the chancery clerk shall, at all reasonable hours on business days, be subject to the inspection and examination of all citizens; and the clerk shall show to any person * * * inquiring for it where any record or paper in his or her office can be found, and shall allow him or her access to it, and to examine it and make any copy, note, or memorandum he or she desires to make of it.

SECTION 3. Section 25-61-5, Mississippi Code of 1972, is amended as follows:

25-61-5. (1) (a) Except as otherwise provided by Sections 25-61-9 * * *, 25-61-11 * * * and 25-61-11.2, all public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the

public body concerning the cost, time, place and method of access, and public notice of the procedures shall be given by the public body, or, if a public body has not adopted written procedures, the right to inspect, copy or mechanically reproduce or obtain a reproduction of a public record of the public body shall be provided within one (1) working day after a written request for a public record is made. No public body shall adopt procedures which will authorize the public body to produce or deny production of a public record later than seven (7) working days from the date of the receipt of the request for the production of the record.

(b) If a public body is unable to produce a public record by the seventh working day after the request is made, the public body must provide a written explanation to the person making the request stating that the record requested will be produced and specifying with particularity why the records cannot be produced within the seven-day period. Unless there is mutual agreement of the parties, or the information requested is part of ongoing negotiations related to a request for competitive sealed proposals, in no event shall the date for the public body's production of the requested records be any later than fourteen (14) working days from the receipt by the public body of the original request. Production of competitive sealed proposals in accordance with requests made pursuant to this section shall be no later than seven (7) working days after the notice of intent to award is issued to the winning proposer. Persons making a request

for production of competitive sealed proposals after the notice of intent to award is issued by the public body shall have a reasonable amount of time, but in no event less than seven (7) working days after the production of the competitive sealed proposals, to protest the procurement or intended award prior to contract execution.

(2) If any public record contains material which is not exempted under this chapter, the public agency shall redact the exempted material and make the nonexempted material available for examination. Such public agency shall be entitled to charge a reasonable fee for the redaction of any exempted material, not to exceed the agency's actual cost.

(3) Denial by a public body of a request for access to or copies of public records under this chapter shall be in writing and shall contain a statement of the specific exemption relied upon by the public body for the denial. Each public body shall maintain a file of all denials of requests for public records. Public bodies shall be required to preserve such denials on file for not less than three (3) years from the date such denials are made. This file shall be made available for inspection or copying, or both, during regular office hours to any person upon written request.

SECTION 4. Section 25-59-19, Mississippi Code of 1972, is amended as follows:

25-59-19. Except as otherwise provided in Section 25-61-11.2, all records created or received in the performance of public duty and paid for by public funds are deemed to be public property and shall constitute a record of public acts.

SECTION 5. Section 25-61-10, Mississippi Code of 1972, is amended as follows:

25-61-10. (1) Except as otherwise provided in Section 25-61-11.2, any public body that uses sensitive software, as defined in Section 25-61-9, or proprietary software must not thereby diminish the right of the public to inspect and copy a public record. A public body that uses sensitive software, as defined in Section 25-61-9, or proprietary software to store, manipulate, or retrieve a public record will not be deemed to have diminished the right of the public if it either: (a) if legally obtainable, makes a copy of the software available to the public for application to the public records stored, manipulated, or retrieved by the software; or (b) ensures that the software has the capacity to create an electronic copy of each public record stored, manipulated, or retrieved by the software in some common format such as, but not limited to, the American Standard Code for Information Interchange.

(2) A public body shall provide a copy of the record in the format requested if the public body maintains the record in that format, and the public body may charge a fee which must be in accordance with Section 25-61-7.

(3) Before a public body acquires or makes a major modification to any information technology system, equipment, or software used to store, retrieve, or manipulate a public record, the public body shall adequately plan for the provision of public access and redaction of exempt or confidential information by the proposed system, equipment or software.

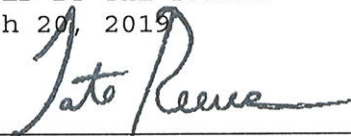
(4) A public body may not enter into a contract for the creation or maintenance of a public records data base if that contract impairs the ability of the public to inspect or copy the public records of that agency, including public records that are online or stored in an information technology system used by the public body.

SECTION 6. Section 31-7-111, Mississippi Code of 1972, is amended as follows:

31-7-111. Except as otherwise provided in Section 25-61-11.2, such records, reports, supporting documents or data compiled, maintained, protected or otherwise in the custody of either the purchase clerk or the inventory control clerk shall be made freely available to the other immediately upon request. Such records, reports, supporting documents or data shall be public records and shall be made available for inspection during reasonable hours to any person requesting the same.

SECTION 7. This act shall take effect and be in force from
and after July 1, 2019.

PASSED BY THE SENATE
March 20, 2019



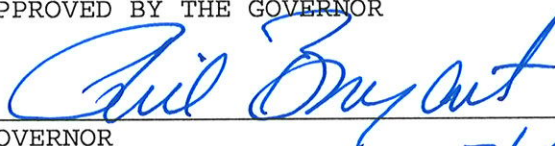
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 12, 2019



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

3/29/2019 2:36pm